

The resolution was then adopted by the following vote:

Yeas—16.

Bailey.	Rogers.
Burns.	Stafford.
Dibrell.	Stone.
Gough.	Tillett.
Lewis.	Turney.
Linn of Wharton.	Wayland.
Neal.	Yantis.
Presler.	Yett.

Nays—10.

Boren.	Kerr.
Colquitt.	Morriss.
Darwin.	Ross.
Goss.	Terrell.
Harrison.	Woods.

Absent.

Atlee.	Bowser.
Beall.	

Excused.

Greer.	Linn of Victoria.
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Call concluded.

By unanimous consent,

Senator Lewis sent up the following committee report:

Committee Room,
Austin, Jan. 20, 1897.

Hon. George T. Jester, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 42, a bill to be entitled "An act to amend chapter 3 of title 40, of the Revised Civil Statutes of Texas, by adding thereto article 2293a, relating to the deposition of parties,"

Have had the same under consideration, and I am intructed to report the same back to the Senate with the recommendation that it do pass.

LEWIS, Chairman.

On motion of Senator Goss,

The Senate adjourned until 10 a. m. to-morrow.

EIGHTH DAY.

Senate Chamber,

Austin, Tex., Thursday, Jan. 21.

Senate met pursuant to adjournment.

Lieutenant-Governor Jester in the chair.

Roll called. Quorum present, the following Senators answering to their names:

Bailey.	Colquitt.
Bowser.	Darwin.
Burns.	Dibrell.

Goss.	Stafford.
Gough.	Stone.
Harrison.	Terrell.
Kerr.	Tillett.
Lewis.	Turney.
Morriss.	Wayland.
Neal.	Woods.
Presler.	Yantis.
Rogers.	Yett.
Ross.	

Absent.

Atlee.	Linn of Wharton.
Boren.	

Excused.

Beall.	Linn of Victoria.
Greer.	

Prayer by the Chaplain, Rev. F. S. Jackson.

Pending the reading of the Journal of yesterday,

On motion of Senator Woods, the same was dispensed with.

On motion of Senator Ross, Senator Linn of Wharton was excused from attendance upon the Senate to-day, on account of sickness.

On motion of Senator Bowser, Senator Greer was excused indefinitely on account of serious illness.

On motion of Senator Bailey, Senator Beall was excused from attendance upon the Senate on Monday, Tuesday, Wednesday, and Thursday on account of sickness.

COMMITTEE REPORTS.

Committee Room,
Austin, Jan. 20, 1897.

Hon. George T. Jester, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 22, a bill to be entitled "An act to amend title 17, chapter 3, of the Penal Code of the State of Texas, by adding article 794a after article 794 of said chapter, for the purpose of preventing stock from running at large in counties, districts and subdivisions of counties where stock are forbidden by law from running at large, and to provide a penalty therefor,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the following amendments:

Amend by striking out the words "or negligently," and inserting in lieu thereof "and knowingly."

2. Amend article 794a by inserting in line 3, after the word "large" the following:

"Or if any person shall take from the possession of any one who has im-

pounded said stock, or take them for the purpose of impounding without the consent of said person."

And thus amended, recommend that it do pass.

STAFFORD, Chairman.

Committee Room,
Austin, Jan. 20, 1897.

Hon. George T. Jester, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 31, a bill to be entitled "An act to amend article 838, chapter 6, title 17, of the Penal Code of the State of Texas, defining the crime of burglary,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

STAFFORD, Chairman.

Committee Room,
Austin, Jan. 20, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 32, a bill to be entitled "An act to amend chapter 4, title 7, of the Code of Criminal Procedure, by adding thereto article 524a, providing for the issuance of attachments for witnesses residing in the county of the prosecution, when such witness is about to remove therefrom,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

STAFFORD, Chairman.

Committee Room,
Austin, Jan. 20, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 36, a bill to be entitled "An act to amend article 723 of the Code of Criminal Procedure in the State of Texas,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

STAFFORD, Chairman.

Committee Room,
Austin, Jan. 20, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 39, a bill to be enti-

tled "An act to amend article 353, and repeal articles 354, 355, 356, 357 and 358, title 10, chapter 3, of the Penal Code of the State of Texas, in regard to adultery and fornication,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the following amendments:

1. Amend by striking out the word "fifty" in the penalty clause and inserting in lieu thereof "twenty-five."

And as thus amended recommend that it do pass.

STAFFORD, Chairman.

Committee Room,
Austin, Jan. 20, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 43, a bill to be entitled "An act to amend article 672, title 8, chapter 3, of the Code of Criminal Procedure of the Revised Statutes of the State of Texas of 1895,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the following amendment:

Amend by striking out the word "ten" and insert "fifteen," and by striking out the word "six" and insert "eight."

And as thus amended recommend that it do pass.

STAFFORD, Chairman.

Committee Room,
Austin, Jan. 20, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 44, a bill to be entitled "An act to amend article 881, title 14, chapter 11, of the Penal Code of the State of Texas of 1895,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

STAFFORD, Chairman.

Committee Room,
Austin, Jan. 20, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 50, a bill to be entitled "An act to amend article 878, title 17, chapter 9, of the Penal Code of the State of Texas, in regard to receiving stolen property,"

Have had the same under considera-

tion, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

STAFFORD, Chairman.

Committee Room,
Austin, Jan. 20, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Committee on Education, to whom was referred

Senate bill No. 48, a bill to be entitled "An act to provide for the survey of lands to be set apart as a permanent endowment fund for a branch university for colored people of this State,"

Have considered said bill, and hereby report the same back to the Senate with the recommendation that it do pass.

PRESLER, Chairman.

Committee Room,
Austin, Jan. 20, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Committee on Public Lands, to whom was referred

Senate bill No. 24, a bill to be entitled "An act to validate certain illegal sales of public school, university, and asylum lands, sold under section 22, chapter 99, of the laws of 1887, and the amendments thereto, sold as isolated and detached lands, which were not in fact isolated and detached,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

GOSS, Chairman.

MAJORITY REPORT.

Committee Room,
Austin, Jan. 20, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Committee on Public Lands, to whom was referred

Senate bill No. 56, a bill to be entitled "An act to quiet title to lands located and surveyed by virtue of land certificates granted under the act of the Legislature of the State of Texas, entitled an act granting to persons who have been permanently disabled by reason of wounds received while in the service of this State or of the Confederate States a land certificate for 1280 acres of land, approved April 9, 1881, and to validate patents issued on such locations and surveys,"

Have had the same under consideration, and I am instructed to report it

back to the Senate with the recommendation that it do pass.

GOSS, Chairman.

MINORITY REPORT.

Committee Room,
Austin, Jan. 20, 1897.

Hon. Geo. T. Jester, President of the Senate:

I, a minority of your Committee on Public Lands, beg leave to dissent from the report of the majority on

Senate bill No. 56, a bill to be entitled "An act to quiet title to lands located and surveyed by virtue of land certificates granted under the act of the Legislature of the State of Texas, entitled an act granting to persons who have been permanently disabled by reason of wounds received while in the service of this State or of the Confederate States a land certificate for 1280 acres of land, approved April 9, 1881, and to validate patents issued on such locations and surveys,"

And in lieu of said report recommend that the same do not pass.

GOUGH.

Committee Room,
Austin, Jan. 20, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Finance Committee, to whom was referred

Senate bill No. 53, a bill to be entitled "An act to appropriate six thousand dollars for the relief of the inmates of the Buckner Orphans' Home of Dallas, Texas,"

Have had the same under consideration, and instruct me to report the same back to the Senate with the recommendation that it do pass, and further I am directed to recommend that the bill be not printed.

STONE, Chairman.

BILLS AND RESOLUTIONS.

By Senator Goss:

Senate bill No. 63, a bill to be entitled "An act to repeal articles 4218d and 4218i, chapter 12a, title 87, of the Revised Statutes of the State of Texas, and to add to said chapter article 4218ff, and to amend articles 4218e, 4218f and 4218s of said chapter and title, relating to the sale and lease of the public free school and asylum land."

Read first time and referred to Committee on Public Lands.

By Senator Goss:

Senate bill No. 64, a bill to be entitled "An act to amend article 402, chapter 6, of the Penal Code of the

State of Texas, relating to the unlawful sale of intoxicating liquors."

(It provides a penalty for violation of the local option law when adopted in a subdivision of a county or precinct, etc., and prohibits the keeping of liquor in storage or cold storage by any person for others.)

Read first time and referred to Judiciary Committee No. 2.

By Senator Rogers (by request):

Senate bill No. 65, a bill to be entitled "An act to protect workmen in the right of organization and the purposes thereof."

Read first time and referred to Committee on Labor.

By Senator Kerr:

Senate bill No. 66, a bill to be entitled "An act to provide for single election polls in cities and towns not having more than 300 electors, and to repeal all laws and parts of laws in conflict therewith."

Read first time and referred to Committee on Towns and City Corporations.

By Senator Terrell:

Senate bill No. 67, a bill to be entitled "An act to amend article 689, chapter 4, title 8, of the Code of Criminal Procedure of the State of Texas, relating to the number of the peremptory challenges to jurors allowed to the State and defendant in felony cases not capital."

Read first time and referred to Judiciary Committee No. 2.

By Senator Wayland:

Senate bill No. 68, a bill to be entitled "An act to amend article 736 of chapter 16 of the Revised Civil Statutes so as to facilitate the giving of bonds, by authorizing corporate suretyship thereon."

Read first time and referred to Judiciary Committee No. 1.

By Senator Yantis:

Senate bill No. 69, a bill to be entitled "An act to amend chapter 7 of title 18 of the Penal Code of the State of Texas, relating to trusts and conspiracies against trade, by adding of Texas, relating to trusts and conspiracies against trade, by adding after article 988d the article 988c, 'for the purpose of prescribing what weight may be given to the uncorroborative evidence of an accomplice or participant in the offense defined in this chapter, and to exempt from prosecution any accomplice who testifies to all the facts within his knowledge against his principal.'"

Read first time and referred to Judiciary Committee No. 2.

By Senator Colquitt:

Senate bill No. 70, a bill to be entitled "An act to prohibit debtors from making preferences between creditors in deeds of assignment, by deeds of trust, mortgage, deed, sale, confession of judgment, or by any other transfer or conveyance of any or all of such debtor's property, estate or assets."

Read first time and referred to Judiciary Committee No. 1.

By Senator Bowser:

Senate bill No. 71, a bill to be entitled "An act to incorporate the city of Dallas and grant it a new charter."

Read first time and referred to Committee on Towns and City Corporations.

By Senator Lewis:

Senate bill No. 72, a bill to be entitled "An act to establish the State Board of Embalming, to provide for the better protection of health and life, to prevent the spread of contagious diseases, and to regulate the practice of embalming and the care and disposition of the dead."

Read first time and referred to Committee on Public Health.

By Senator Dibrell:

Senate bill No. 73, a bill to be entitled "An act to provide for preliminary hearings in trials of trespass to try title to real estate; for a more speedy settlement of land titles in this State; and to repeal all laws and parts of laws in conflict with the provisions of this act."

Read first time and referred to Judiciary Committee No. 1.

By Senator Turney:

Senate bill No. 74, a bill to be entitled "An act to authorize the Commissioner of the General Land Office to forfeit all lands heretofore sold by the State under any of the various acts of the Legislature for failure to pay any portion of the purchase price therefor or interest thereon or for failure to reside on said land."

Read first time and referred to Committee on Public Lands.

By Senator Turney:

Senate bill No. 75, a bill to be entitled "An act to validate all office forfeitures of lands heretofore made by the Commissioner of the General Land Office for the non-payment of any part of the purchase money or interest due thereon, etc."

Read first time and referred to Committee on Public Lands.

By Senator Gough:

Senate resolution No. 2, "Instructing the Secretary to print rules," etc.

Read first time and referred to Committee on Rules.

Call concluded.

The Chair announced the addition of Senator Terrell to Judiciary Committee No. 2; Senator Harrison to Committee on Public Health, and the following Committee on Labor: Senators Neal, Rogers, Darwin, Burns and Wayland.

At the direction of the Chair, the following invitation was read:

Austin, Tex., Jan. 18, 1897.

Lieutenant-Governor Geo. T. Jester,
President of the Senate:

Dear Sir: You and the Senators and officers of the Senate are cordially invited to visit the Institution for the Blind whenever it may suit your convenience to do so. Yours truly,

E. P. BECTON, Superintendent.

By unanimous consent Senator Gough called up

Senate bill No. 53, a bill to be entitled "An act to appropriate \$6000 for the relief of the inmates of the Buckner Orphans' Home of Dallas, Texas,"

On second reading.

Bill read second time, and

Failed on engrossment by the following vote:

Yeas—11.

Bowser.	Presler.
Burns.	Stone.
Gough.	Wayland.
Kerr.	Yantis.
Morriss.	Yett.
Neal.	

Nays—13.

Colquitt.	Ross.
Darwin.	Stafford.
Dibrell.	Terrell.
Goss.	Tillett.
Harrison.	Turney.
Lewis.	Woods.
Rogers.	

Absent.

Atlee.	Bailey.
Boren.	

Excused.

Beall.	Linn of Victoria.
Greer.	Linn of Wharton.

I vote "no," because I don't believe the Constitution permits such an expenditure of the public funds. I don't believe that the destruction of the boys' orphan home is such a public calamity as permits such an appropriation, because it can and will be met by private donations, as it was built.

TERRELL.

We vote "no" on the bill because we think the Constitution forbids such appropriations. However much we might be inclined to appropriate the people's money for the benefit of the poor children of this institution, we can not do so entertaining the views we do of the meaning of our Constitution, article 3, section 51.

DIBRELL.

HARRISON.

I can not vote for the resolution, because I believe it to be a dangerous precedent, and I do not believe the Constitution authorizes such appropriation of this private character.

ROSS.

My reason for opposing this bill is that, in my opinion, this awful misfortune is clearly not a "public calamity" within the meaning of the Constitution.

TILLETT.

I vote "no" on this bill for the reason that I do not believe it to be warranted under section 51 of the Constitution.

DARWIN.

Mr. President: I beg to submit the following reasons for my vote in favor of this bill:

First. Because the purpose of the proposed appropriation is worthy and humane, viz., for the relief and assistance of the helpless inmates of Buckner's orphan home whom misfortune has recently deprived of shelter.

Second. Because the appropriation sought to be made is permitted under section 51, article 3 of the Constitution as modified by the last given exception, viz.: "Provided further, that the provisions of this section shall not be construed so as to prevent the grant of aid in case of public calamity." The destruction by fire of an orphan's home, whether maintained and controlled by an individual, by an association of persons, or by the State, where the helpless and indigent orphans of our people are protected, sheltered and supported, is a public calamity, and by any fair rule of construction section 51, article 3, permits and authorizes the appropriation. If, independent of statute, and as a matter of right, it is the duty of the whole people to educate each child in order to secure a good citizenship, it is equally our duty to provide for the support and proper training of the indigent orphan, who, by reason of his orphanage, is that much more properly a ward of the State, and any injury to or destruction of an institution that discharges this duty is a public calamity.

Third. The appropriation sought to be made is abundantly supported by precedent. The relief granted the people of Cisco by the Twenty-third Legislature, and the aid given the drouth sufferers of the west in 1886 are directly in point.

PRESLER.

Mr. President: Since others have gone into the Record with their reasons for voting "aye" and "nay" on the Buckner's orphan home resolution, I also desire to record my reasons for voting "aye" on that question yesterday.

A public calamity in the meaning of the Constitution, in my opinion, is the destruction or injury of any public institution, any house or property belonging to the public generally, or that might be used by or for the public, and for which the public or people at large, either by taxation or voluntarily co-operated in maintaining and the benefits from which accrue to the general public.

Such an institution was the Buckner orphan home in Dallas county.

No railroad wreck, or visitation of cyclone or pestilence, such as was cited in argument yesterday, can properly come under this definition of a public calamity, as in these visitations of disaster only private property is destroyed, as a rule, and the inhibiting clause, as to individuals, would here have to be such. See Constitution.

Believing the Buckner orphan home to be a public institution, whose benefits to the people at large are not to be calculated in base dollars and cents, and knowing that the institution in its benefits is not confined to any sect, but that its doors were open to the poor, the distressed, the homeless and friendless orphan of no matter what parentage, so that they were white, other institutions of a similar nature being kept in the State for the colored people; its destruction by fire was a public calamity, calling in my opinion not upon the generosity of a State, but it was a constitutional duty for this Legislature to tender to them the aid asked for in the resolution.

For these reasons I voted "aye" on the resolution.

MORRIS.

The Chair gave notice of signing, and did sign, after the caption had been read,

Senate resolution in memory of the late John C. Duval, a veteran of the Army of the Republic of Texas, last survivor of the Fannin massacre, at Goliad, March 27, 1836.

The following message from the Governor was received:

Executive Office,
Austin, Jan. 21, 1897.

To the Senate: The advice and consent of the Senate is respectfully asked to the following appointments:

Assistant Attorney General—Mann Trice of Dallas county.

Secretary of State—J. W. Madden of Houston county.

Adjutant General—W. H. Mabry of Marion county.

Commissioner of Agriculture, Insurance, Statistics, and History—A. J. Rose of Bell county.

State Health Officer—Dr. R. M. Swearingen of Travis county.

Commissioners of Penitentiaries—William Clemens of Comal county, L. M. Openheimer of Travis county, S. M. Fry of Tarrant county.

Superintendent of Penitentiaries—L. A. Whatley of Cass county.

Assistant Superintendent of Penitentiaries at Huntsville—J. G. Smither of Walker county.

Assistant Superintendent of Penitentiaries at Rusk—J. P. Gibson of Cherokee county.

Financial Agent of Penitentiaries—J. S. Rice of Tyler county.

Inspectors of Penitentiaries—T. E. Durham of Gregg county and Wharton Bates of Brazoria county.

Judge of the Criminal District Court for the counties of Galveston and Harris—E. D. Cavin of Galveston county.

Trustees for House of Correction and Reformatory—W. C. O'Bryan of McLennan county, G. M. Shumate of Coryell county, A. Matthews of Coryell county, vice C. A. Rogers, resigned.

Board of Trustees of the Orphan Asylum—Jink Evans, E. W. Johnson, G. M. Westbrook, all of Navarro county.

Board of Managers of Confederate Home—W. L. Cabell of Dallas county, H. E. Shelley of Travis county, J. B. Rodgers of Travis county, Levi Shackelford of Travis county, W. L. Stephenson of Hays county.

Board of Managers for North Texas Hospital for the Insane—J. S. Grinnan, A. H. Ables, W. A. Brooks, James Young, Dr. A. J. Childress, all of Kaufman county.

Board of Managers of Southwestern Hospital for the Insane—T. D. Cobbs, B. F. McNulty, A. E. Devine, Phil Shardein, Dr. H. D. Barnitz, all of Bexar county.

C. A. CULBERSON.

On motion of Senator Bowser, tomorrow, at 12 m., was fixed as the

hour for the Senate to go into executive session on the above appointments.

BILLS ON SECOND READING.

The Chair laid before the Senate

Senate bill No. 6, a bill to be entitled "An act to prescribe the time when suits for personal injuries, and for injuries resulting in death, shall be instituted; and to fix the period of limitation in such action."

Bill read second time, and,

On motion of Senator Burns, further consideration was postponed and the bill made special order for Monday, January 25, after call.

The Chair then laid before the Senate

Senate bill No. 8, a bill to be entitled "An act to amend article 2526 of the Revised Civil Statutes of Texas, relating to juries in cases of forcible entry and detainer."

Bill read second time.

By Senator Lewis:

Amend. by adding after the word "trial," in line 13, the words "and before the parties announce ready for trial."

Adopted.

By Senator Tillett:

Amend by substituting the word "commanding" for the word "demanding," last word of line 15.

Adopted.

The bill was then ordered engrossed.

The Chair laid before the Senate

Senate bill No. 42, a bill to be entitled "An act to amend chapter 3, of title 40, of the Revised Civil Statutes of Texas, by adding thereto article 2293a, relating to the deposition of parties."

Bill read second time.

By Senator Lewis:

Amend by adding after the word "officers," in line 19, the following: "And any agent or employe of such corporation whose contract, act, or conduct forms the basis of the suit in which the deposition is taken."

Adopted.

By Senator Dibrell:

Amend by adding after the words "officer," in line 20, the words "agent or employe."

Adopted.

The bill was then ordered engrossed.

By consent, Senator Dibrell offered the following:

It is fitting for the people, through their accredited representatives, to express regret for the loss of a faithful and distinguished advocate of their cause. The death of the late John

Ireland, who served the people of Texas in the capacity of Representative, State Senator, Supreme Judge, and Governor, merits universal regret. On the one hand he was as near the common people as any public man ever entrusted with office in this State, and on the other, the peer of any in legitimate imperialism. He was at the same time a public servant and master of all he surveyed. His education was the rich endowment of nature, supplemented by arduous toil. Among ten thousand he bore the impress of greatness.

The people of Texas as recompense for the faithful and eminent public service rendered them by this great man have not bestowed more than he deserved, and they would be ungrateful not to cherish the memory of his fidelity, his honesty, his patriotism, and distinction as a statesman, jurist and citizen.

Therefore, be it resolved, That the people of Texas do heartily concur in the foregoing expressions of fact and regard.

Resolution read, and

On motion of Senator Woods unanimously adopted by a rising vote.

By Senator Ross:

Whereas, Since the Legislature last met in regular session, Gen. Samuel Bell Maxey, a distinguished statesman, soldier, and lawyer, has died; therefore be it

Resolved by the Senate, That in the death of General Samuel Bell Maxey, who was elected at one time a member of the Senate of Texas, and who was a distinguished lawyer and Confederate soldier, and who served Texas faithfully in the United States Senate for twelve years, Texas has lost a great statesman and patriot and one whose memory and works the people of this State will always revere and appreciate.

Resolution read, and

On motion of Senator Burns, adopted unanimously by a rising vote.

On motion of Senator Dibrell, the Senate adjourned until 10 a. m. tomorrow.

NINTH DAY.

Senate Chamber,
Austin, Tex., Friday, Jan. 22.

Senate met pursuant to adjournment.

Lieutenant Governor Jester in the chair.

Roll called. Quorum present, the fol-